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FILING A HOSTILE WORK ENVIRONMENT DISCRIMINATION COMPLAINT

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FEDERAL LEGAL CONER— Before a federal employee can file a formal discrimination complaint, he or she must initiate EEO counseling within forty-five (45) days of the discriminatory event. There are exceptions to this strict deadline, however, if the employee is alleging a "hostile work environment" that has existed over several months or even years. This is referred to as a "continuing violation."

A few months ago, the U.S. Supreme Court clarified and solidified the doctrine of the continuing violation. In *National Railroad Passenger Corp. v. Morgan*, 122 S. Ct. 2061, 2002 U.S. Lexis 4214 (2002), the Supreme Court ruled that by their very nature, hostile work environment claims involve repeated conduct and that the unlawful conduct cannot be said to occur on a particular day. One action standing alone may not be sufficient to rise to the level of a civil rights violation. Cumulatively, however, these otherwise unactionable events may give rise to a harassment charge.

Therefore, when an individual alleges a hostile work environment claim, he or she may include behavior that occurred more than forty-five days earlier, as "long as any act contributing to that hostile environment takes place within the statutory time period." *Morgan*, 122 S. Ct. at 2068. As long as at least one event falls within the last 45-days, then all the events which comprise a hostile work environment can collectively give rise to the Agency's liability. In order to have the continuing violation rule apply, the employee must claim that the series of acts cumulatively demonstrates a practice that occurred prior to and during the 45-day period.

Although the continuing violation argument may let an employee broaden the scope of his or her complaint, it is not recommended that the employee ignore the 45-day rule. To ensure that an employee meets all of his or her obligations, the employee should always initiate EEO counseling within the first 45-days. However, sometimes an employee does not realize until later that a certain action was part of a larger practice of discrimination. In those circumstances, the employee should identify all the possible events, including those that occurred more than 45-days earlier. In addition, if more events of the hostile work environment happen after the formal complaint is filed, the employee should timely inform the EEO office.

New 2002 TRICARE Handbook Available For Beneficiaries and Providers*October 30, 2002**No. 02-28*

After five years of honorable service to Military Health System beneficiaries and providers worldwide, the time has come to retire the red, white and blue TRICARE "Standard" Handbook. Its replacement, the September 2002 TRICARE Handbook, is available for distribution to beneficiaries and providers worldwide.

The new handbook highlights all three TRICARE options -- Prime, Standard and Extra -- and the many health care programs and benefits added since the 1997 edition. New topics and benefits covered include TRICARE For Life, TRICARE Prime Remote for Active Duty Family Members, TRICARE Plus, Travel Reimbursement, Chiropractic Care, TRICARE Senior Pharmacy Program, TRICARE Dental Program, Debt Collection Assistance Officer Program, Beneficiary Counseling and Assistance Coordinator Program, and more.

The handbook has a fresh new design and color. The cover is white with a vignette representing uniformed services families, ranks and memorabilia on the front and helpful telephone numbers and addresses on the back. Included inside are improved charts and graphs for cost comparisons, tips and helpful reminders for beneficiaries to consider before seeking care from authorized civilian providers.

The new handbook is being shipped to TRICARE service centers and military treatment facilities in every TRICARE region and is available to sponsors and their family members upon request. An electronic version of the handbook is available for viewing or downloading at <http://www.tricare.osd.mil/TricareHandbook/> (see NOTES below).

Providers or organizations requiring additional quantities of handbooks may order the handbook from the TRICARE SMART Store at <http://www.tricare.osd.mil/smart/>

Sponsors and family members with TRICARE questions or in need of assistance are still encouraged to contact their local beneficiary counseling and assistance coordinator, health benefits adviser, or TRICARE service center representative. A list of local and regional toll-free TRICARE telephone numbers is available in the handbook and on the TRICARE Web site at <http://www.tricare.osd.mil/main/tollfree.htm>

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SOURCE: TRICARE Web Site at <http://www.tricare.osd.mil>